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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re A.G., a Person Coming Under the
Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

JANE R.-G.,

Defendant and Appellant.

D053797

(Super. Ct. No. EJ2985)

APPEAL from a judgment of the Superior Court of San Diego County, Gary M.
Bubis, Judge. Affirmed.

Jane R.-G. appeals a judgment declaring her minor son, A.G., a dependent of the
juvenile court under Welfare and Institutions Code¹ section 300, subdivision (a) and
removing him from her custody. Jane contends the court erred by: (1) failing to consider

¹ Statutory references are to the Welfare and Institutions Code.

less drastic alternatives to removal; and (2) refusing to order more than four hours of visitation per week. We affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

In July 2008 one-month-old A.G. was admitted to the hospital with multiple skull and rib fractures. A.G.'s parents² denied any knowledge of how he was injured. Examining physicians determined A.G.'s skull injuries were acute but his rib fractures were more than a week old and concluded his injuries were nonaccidentally inflicted. The San Diego County Health and Human Services Agency (Agency) filed a petition on behalf of A.G. under section 300, subdivisions (a) and (b) and detained him in out-of-home care.

According to a report prepared for the jurisdiction and disposition hearing, Jane insisted she did not hurt A.G. She said A.G. fell off the bed two weeks earlier, but she did not seek medical attention because he stopped crying. Jane also speculated A.G.'s injuries may have occurred when he was in the care of other people.

The paternal grandmother declined placement of A.G. because she wanted nothing to do with Jane, whom she described as mentally unstable. The grandmother had a restraining order against her. Others who knew Jane believed she had mental health problems based on her bizarre behavior and statements. Although the social worker gave Jane referrals for counseling, she did not contact a therapist.

² A.G.'s father, Edward G., has not appealed.

A.G. was experiencing seizures for which he was prescribed medication. Jane had supervised visits with him. During visits, she breastfed A.G. for the entire time, but he remained hungry. Jane refused to supplement A.G.'s diet with formula, repeatedly expressing concern that he was getting fat. Visitation monitors noted the mother's odd behavior at visits.

Jane did not understand that she was responsible for A.G.'s welfare. She maintained she did nothing to harm A.G., and insisted her friend Angela was the person who hurt him. Jane wanted A.G. returned to her custody.

At a contested jurisdiction and disposition hearing, Jane testified she could not explain how A.G. received numerous fractures to his head and ribs. She left A.G. in the care of others on only two occasions. She wanted more frequent visits with A.G. because it was important for her to breastfeed him.

After considering the evidence and hearing argument of counsel, the court sustained the allegations of the petition under section 300, subdivision (a), declared A.G. a dependent, removed him from Jane's custody and placed him in foster care. The court ordered reunification services for the parents, including a minimum of two visits per week.

DISCUSSION

I

Jane challenges the sufficiency of the evidence to support the court's dispositional order. Specifically, she contends the court erred by: (1) failing to make specific findings as to what efforts were made to prevent or eliminate the need for removal; and (2) not considering disposition alternatives less drastic than removing A.G. from her custody.

A

Before the court may order a child physically removed from his or her parent, it must find, by clear and convincing evidence, the child would be at substantial risk of harm if returned home and there are no reasonable means by which the child can be protected without removal. (§ 361, subd. (c)(1); *In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1654.) The jurisdictional findings constitute prima facie evidence the child cannot safely remain in the home. (§ 361, subd. (c)(1).) "The court shall state the facts on which the decision to remove the minor is based." (§ 361, subd. (d).) We review the court's dispositional findings for substantial evidence. (*In re Kristin H., supra*, 46 Cal.App.4th at p. 1654.)

B

Here, the court expressly found there would be a substantial danger to A.G.'s physical or emotional well-being if he were returned home and there were no reasonable means by which he could be protected without removal. The court further found

reasonable efforts were made to prevent or eliminate the need for removal.³ The court's dispositional order was based on findings, supported by substantial evidence, that A.G. sustained serious injuries as a result of unreasonable acts by Jane. The evidence showed A.G. could not safely remain with Jane. A.G. had two skull fractures and six rib fractures, which occurred while he was in Jane's care. His injuries caused him to have seizures for which he needed ongoing medical care. Jane maintained she did not know how A.G. was hurt and refused to accept any responsibility for his injuries. The court expressly disbelieved Jane's implausible explanation that the injuries occurred two weeks apart while A.G. was briefly in the care of two other people. Substantial evidence supports the court's finding there were no reasonable means by which A.G. could be protected without removing him from Jane's care.

Jane asserts placing A.G. with her in a shelter, under Agency's supervision, was a reasonable alternative to removal. However, throughout the proceedings, Jane refused to go to a shelter, choosing instead to live with people she did not know well. Jane had ongoing emotional problems and had not engaged in counseling, despite receiving referrals for therapists. From this evidence, the court could reasonably find returning A.G. to Jane's care was not a feasible alternative.

³ Jane mistakenly asserts the court must expressly state what efforts were made to prevent or eliminate the need for removal. Instead, the statute requires the court to state facts on which the decision to remove the minor is based, which the court here did.

II

Jane contends the court erred by refusing to order more than four hours of visitation per week. She asserts the court improperly delegated its authority to ensure additional visitation to A.G.'s foster mother.

A

The juvenile court defines a parent's visitation rights by balancing the parent's interests in visitation with the child's best interests. (*In re Jennifer G.* (1990) 221 Cal.App.3d 752, 757.) The court may impose restrictions on parental visitation, consistent with the child's best interests under the particular circumstances of the case. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1009; *In re Clara B.* (1993) 20 Cal.App.4th 988, 999.) The state's interest in providing for the best interests of the child justifies any limited intrusion on a parent's right to visitation. (*In re Melissa H.* (1974) 38 Cal.App.3d 173, 175.) The court has broad discretion in making visitation orders, which we review for an abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

The juvenile court may delegate the ministerial tasks of overseeing reunification services, including visitation, to the person or entity best able to perform them. (*In re Jennifer G., supra*, 221 Cal. App.3d at p. 757 [ministerial task of overseeing visitation as defined by juvenile court is best left to child protective services agency]; *In re Moriah T.* (1994) 23 Cal.App.4th 1367, 1374 [juvenile court may delegate to social worker the responsibility to manage details of visitation such as time, place and manner].) Only when the court abdicates its duty to determine whether any visitation will occur does it

improperly delegate its authority. (*In re Chantal S.* (1996) 13 Cal.4th 196, 213; *In re Christopher H.*, *supra*, 50 Cal.App.4th at p. 1009.)

B

Here, the court's visitation order does not vest Agency or the foster mother with "absolute" discretion to determine whether visitation will occur. Rather, the court ordered a minimum of two visits per week. Although the court declined Jane's request to specify the visits would be three or four hours in duration, it properly authorized Agency to manage the details of visitation by setting up a schedule. The court also set a hearing in three weeks to monitor visitation. The court's order provided for visitation as frequently as possible under the circumstances and no improper delegation of authority occurred. (*In re Jennifer G.*, *supra*, 221 Cal.App.3d at p. 758; *In re Moriah T.*, *supra*, 23 Cal.App.4th at p. 1374.)

DISPOSITION

The judgment is affirmed.

HALLER, J.

WE CONCUR:

BENKE, Acting P. J.

AARON, J.